



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: HOha14100761
HUD No.: 05-15-0002-8

JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,

v.

ROY HANOVER,
Respondent.

NOTICE OF FINDING and
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On October 1, 2014, [REDACTED] ("Complainant") filed a Complaint with the Commission against Roy Hanover ("Respondent,") alleging unlawful discriminatory housing practices on the basis of disability in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*) the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and the Federal Fair Housing Act (42 U.S.C. § 3601, *et seq.*) The Commission, therefore, has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The first before the Commission is whether Respondent denied Complainant the opportunity to rent because of her son's disability. In order to prevail on such a claim, Complainant must show that 1) she is a member of a protected class; 2) Complainant was qualified to rent according to Respondent's reasonable terms and conditions; 3) Complainant was denied the opportunity to rent; and 4) applicants without disabled children were treated more favorably under similar circumstances.



It is evident that Complainant is a member of a protected class because she resides with a child under the age of 18 with a disability; however, there is insufficient evidence to show that she was qualified to rent from Respondent or that she made a bona fide offer to rent from Respondent. Moreover, no evidence has been submitted or uncovered to show that Respondent rented the property to a less qualified individual.

By way of background and at all times relevant to the Complaint, Complainant was searching for a residence for herself, boyfriend and three children. Complainant receives monthly disability income and child support in the amount of \$850 a month. During the time in question, Respondent sought to rent a property located at 220 Hickory Street for \$700.00 a month; however, he refused to show Complainant the property because of her disabled child. It is important to note that the current tenants of the property have a disabled child.

Despite Complainant's assertions, there is insufficient evidence to show that Complainant was denied an opportunity to rent. Specifically, no evidence has been provided or uncovered to show that Complainant was qualified to rent the properties from Respondent or that less qualified individuals were permitted to rent the premises. As such and based upon the aforementioned, there is no reasonable cause to believe that Complainant was denied an opportunity to rent.

Complainant may appeal the no reasonable cause finding regarding the first issue to the full Commission. 910 IAC 1-3-2(g). The written appeal must be filed with the Commission within fifteen (15) days of receipt of this Notice and must include any new and additional evidence relied on by Complainant to support the appeal.

The second issue before the Commission is whether Respondent made discriminatory statements demonstrating a preference for applicants without disabled children. Simply stated, reasonable cause exists to believe that Respondent made discriminatory statements in violation of the law.

During Complainant's visit to view the aforementioned apartment, Complainant alleges that Respondent asked what was "wrong" with her son after learning she received SSI income. After informing Respondent that he was disabled, Respondent responded "I don't think we should do this." While Respondent asserts he does not remember Complainant, testimonial evidence from the current resident at the property asserts that Respondent made degrading and discriminatory statements about her disabled son, accused her son of "tearing up his house," and threatened to evict the resident because of her son's disability.

Despite Respondent's assertions, there is sufficient evidence to show that a discriminatory practice occurred in this instance. Specifically, the law prohibits the "publication, posting, or mailing of a notice, a statement, or an advertisement prohibited under Ind. Code § 22-9.5-5-2." Respondent's derogatory statements regarding children with disabilities show a preference for renters without disabled children, creating an adverse impact on applicants with disabled

children. As such and based upon the aforementioned, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondent, Complainant, or another aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondent, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, Respondents shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED] and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If, at any time following service of this charge, Respondents intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

January 16, 2015

Date

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission